

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1897.

No. 175.

CHARLES P. BARRETT, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE WESTERN DISTRICT OF SOUTH CAROLINA.

FILED MAY 11, 1898.

(16,296.)

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(16,296.)

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1

Transcript of Record.

THE UNITED STATES OF AMERICA, }
Western District of South Carolina, } *To wit:*

United States District Court.

At a district court of the United States for the western district of South Carolina, begun and holden at Greenville, in said western district, on the 4th day of February, 1895, before the Hon. Wm. E. Brawley, U. S. district judge for the district of South Carolina, holding said court according to the form of the act of Congress in such case made and provided, the following proceedings, among others, were had in the cause entitled—

THE UNITED STATES

vs.

CHARLES P. BARRETT, W. OSCAR EVANS,
 Robert J. McElrath, Thomas B. Neigh-
 bors, Robert C. Wyatt, and J. Robert
 Burdine.

Vio. Sec. 5440, R. S. U. S.
 (Conspiracy to Defraud
 the United States).

Be it remembered that heretofore, to wit, on the 30th day of January, 1895, appeared The United States, by its attorney, Wm. Perry Murphy, in the said United States district court and filed the original record in certain proceedings had in the aforesaid cause in the circuit court of the United States for the district of South
 2 Carolina, at the November term, 1894, of said circuit court, at Columbia, of certain parts of which record the following is an exemplification, to wit:

EXEMPLIFICATION OF RECORD.

Order of Removal.

Filed 30th January, 1895. E. M. Seabrook, Clerk District Court.

THE UNITED STATES OF AMERICA, }
District of South Carolina. }

In the Circuit Court.

THE UNITED STATES

vs.

CHARLES P. BARRETT, W. OSCAR EVANS,
 Robert J. McElrath, Thomas B. Neigh-
 bors, Robert C. Wyatt, J. Robert Bur-
 dine.

Indict. for Vio. Sec. 5440,
 R. S. U. S. (Conspiracy
 to Defraud the U. S.).

On motion of Wm. Perry Murphy, U. S. attorney for the district of South Carolina, it is hereby ordered that the above-stated case be remitted from the circuit court of the United States for the district

of South Carolina to the district court of the United States for the western district of South Carolina.

CHARLES H. SIMONTON,
U. S. Circuit Judge.

30th January, 1895.

Affidavit Before U. S. Comm'r.

Filed 30th January, 1895. E. M. Seabrook, Clerk District Court.

THE U. S. OF AMERICA, }
District of South Carolina, } To wit:

U. S. District Court.

Fred. D. Peer, post-office inspector, personally comes before me and on oath says that he is informed and verily believes that Charles P. Barrett, on or about the 14th day of August, A. D. 1893, at Spartanburg, in the county of Spartanburg, in the district aforesaid, and within the jurisdiction of this court, did violate sec. 1428, Postal Laws of the United States, by receiving and retaining in his possession, with intent to convert to his own use or gain, postage stamps, books, and other property of the United States which had been embezzled, stolen, or purloined from the United States, knowing the same to have been so embezzled, stolen, or purloined, contrary to the power, force, and effect of the statutes of the United States in such case made and provided.

FRED. D. PEER,
Post-office Inspector.

Sworn to before me, at Spartanburg, this 14th day of August, A. D. 1893.

ARCH. B. CALVERT,
U. S. Comm'r.

Commissioner's Warrant.

Filed 30th January, '95.

THE UNITED STATES OF AMERICA, }
District of South Carolina. }

OFFICE OF COM'R OF CIRCUIT & DISTRICT
COURTS OF U. S. FOR SO. CA.

By Arch. B. Calvert, commissioner of the circuit and district courts of the United States for said district, to the U. S. marshal or his deputies:

Whereas complaint on oath has been made unto me by Fred. D. Peer, post-office inspector, that he is informed and verily believes that Charles P. Barrett, on or about the 14th day of August, A. D. 1893, in the county of Spartanburg, South Carolina, did violate sec. 1428, Postal Laws of the U. S., by receiving and retaining in his possession, with intent to convert to his own use or gain, stamps,

books, and other property of the U. S. which had been embezzled, stolen, or purloined from the United States, knowing the same to have been so embezzled, stolen, or purloined :

These are therefore to command you to apprehend the said Chas. P. Barrett and bring him before me, to be dealt with according to law.

Given under my hand and seal, at Spartanburg, the 14th day of August, one thousand eight hundred and ninety-three.

ARCH. B. CALVERT,
Comm'r Circuit and Dist. Courts of U. S. for So. Ca.

5

Marshall's Return on Warrant.

I hereby certify that on the 16th day of August, 1893, I arrested the within-named defendant, Chas. P. Barrett, near Spartanburg post-office, Spartanburg county ; that on the 8, 11, 30 day- of September, 1893, I took him before U. S. Commissioner Arch. B. Calvert, at Spartanburg, S. C., who committed him for preliminary examination ; that I traveled 18 miles on the 8, 11, 30 day- of Sept., 1893, for the purpose of summoning the witnesses in said case ; that I traveled 34 miles to make the arrest, and expended in endeavoring to make said arrest —.

That J. I. Miller acted as guard, and appeared each day before said commissioner, and that said guard was necessary for the safe keeping of the prisoner.

JNO. D. KIRBY,
Dep. U. S. Marshal.

Sworn to before me this 30 day of Sept., 1893.

ARCH. B. CALVERT,
U. S. Comm'r.

6

Recog. of Def't for Trial.

Filed 30th January, '95.

UNITED STATES OF AMERICA, {
South Carolina District.

Be it remembered that on the 23d day of October, in the year of our Lord one thousand eight hundred and ninety-three, personally appeared before me Charles P. Barrett, who acknowledge himself to be and indebted to the United States of America in the sum of fifteen hundred (\$1,500) dollars, to be levied of *their* several lands and tenements, goods and chattels, respectively, to and for the use of the said United States of America if the above-mentioned Charles P. Barrett shall fail in performing the condition underwritten.

The condition of this recognizance is such that if the said Charles P. Barrett shall personally appear before the district judge of the United States of America at the next district court of the said United States of America for the district of South Carolina, to be holden at the usual place of judicature, in Greenville, So. Ca., on

the 3d Monday in January, 1894, next, then and there to answer the charge of violating sec. 1428, Postal Laws of U. S., and to do and receive what shall be enjoined by the court, and not to depart the court without license, then this recognizance to be void or else to remain in full force and virtue.

CHAS. P. BARRETT. [SEAL.]

Taken and acknowledged the day and year above written before me—

ARCH. B. CALVERT,
U. S. Comm'r.

7

Indictment, with Finding of Grand Jury.

Filed 30th January, '95. E. M. Seabrook, clerk dist. court.

THE UNITED STATES OF AMERICA, { To wit :
Dist. of South Carolina,

In the District Court.

At a stated term of the circuit court of the United States for the district of South Carolina, begun and holden at Columbia, within and for the district aforesaid, on the fourth Monday of November, in the year of our Lord one thousand eight hundred and ninety-four, the jurors of the United States of America within and for the district aforesaid—that is to say, upon their oaths respectively do present that Charles P. Barrett, W. Oscar Evins, Robert J. McElrath, Thomas B. Neighbors, Robert C. Wyatt, and J. Robert Burdine, late of the district aforesaid, on the fifteenth day of January, in the year of our Lord one thousand eight hundred and ninety-two, at Spartanburg county, in the State of South Carolina, in said district, and within the jurisdiction of this court, being persons of evil minds and dispositions, wickedly devising and intending to defraud the United States, fraudulently, maliciously, and unlawfully did combine, conspire, confederate, and agree together between and among themselves in the manner following—that is to say, that the said W. Oscar Evins, Robert J. McElrath, Thomas B. Neighbors, Robert C. Wyatt, and J. Robert Burdine, then and

8 there being postmasters at the post-offices of the United States—that is to say, the said W. Oscar Evins being then and there postmaster at Converse, the said Rob't J. McElrath being then and there postmaster at McElrath's, the said Thomas B. Neighbors being then and there postmaster at Dallas, the said Robert C. Wyatt being then and there postmaster at Wyatt's, and the said J. Robert Burdine being then and there postmaster at Cowpens, all of the county of Spartanburg aforesaid—should make false returns to the auditor of the amount of postage stamps, stamped envelopes, postal cards, and newspapers, and periodical stamps cancelled as postage on matter actually mailed, and of postage-due stamps cancelled in payment of undercharges and unpaid postage upon matter delivered, for the purpose of increasing their respective compensa-

tion as such postmasters, and that they, together with the said Charles P. Barrett, should sell and dispose of the postage stamps, stamped envelopes, postal cards, periodical stamps, and postage-due stamps in the said accounts returned as having been cancelled, but which had not been cancelled, and to convert the proceeds of such sale to their own use and to defraud the United States of the same.

And the jurors aforesaid upon their oaths aforesaid do further present that thereafter, in order to effect the object of the conspiracy aforesaid, the said W. Oscar Evins, Robert J. McElrath, Thomas B. Neighbors, Robert C. Wyatt, and J. Robert Burdine, for the purpose of fraudulently increasing their compensation as such postmasters as aforesaid, wilfully, knowingly, and unlawfully did make
9 false and fraudulent returns to the auditor of the business of their respective offices, as such postmasters, of the amounts of postage stamps, stamped envelopes, postal cards, and newspapers, and periodical stamps cancelled as postages on matter actually mailed, and of postage-due stamps cancelled in payment of undercharges and unpaid postages upon matter delivered by them at said post-offices respectively, and thatt he said W. Oscar Evins, Robert J. McElrath, Thomas B. Neighbors, Robert C. Wyatt, and J. Robert Burdine, postmasters as aforesaid, in order to effectuate the conspiracy aforesaid did deliver to the said Charles P. Barrett and the said Charles P. Barrett did receive of and from the said W. Oscar Evins, Robert J. McElrath, Thomas B. Neighbors, Robert C. Wyatt, and J. Robert Burdine, said postmasters, certain postage stamps, stamped envelopes, and postal cards for the purpose thereby of defrauding the United States; and having so received the postage stamps, stamped envelopes, and postal cards as aforesaid, he, the said Charles P. Barrett, did sell and dispose of them to divers persons and did convert the proceeds derived therefrom to his and their own use, contrary to the act of Congress in such case made and provided and against the peace and dignity of the United States.

WM. PERRY MURPHY,

U. S. Attorney.

True bill.

3d Dec'r, 1894.

JEREMIAH SMITH, *Foreman.*

Filed 3d Dec'r, 1894.

J. E. HAGOOD,

Clerk U. S. Circuit Court.

10 And thereafter, to wit, at the February term, 1895, of said United States district court for the western district of South Carolina, begun and holden at Greenville, in said western district, on the 4th day of February, 1895, the Hon. Wm. H. Brawley, judge of said court presiding, the aforesaid case being called, the def't appeared in his own behalf and plead not guilty, and said case came

up for trial before the following-named jury, which was duly organized and sworn to try the issues joined therein, to wit:

T. R. League, foreman.	J. R. Ternight.
J. W. Goldsmith.	L. E. Hodge.
E. C. Crews.	I. D. Isbell.
J. B. Parks.	Miles Babson.
A. R. Fowler.	R. E. Williams.
W. T. J. Woodward.	A. L. Roberts.

which jury having heard the testimony and argument for plaintiff and for def't, and the charge of the court, and considered the case, returned into court with the following verdict:

"As to C. P. Barrett, guilty."
21st February, 1895.

T. R. LEAGUE, *Foreman.*

Sentence Pronounced 21st Feb'y, '95.

"The sentence of the court is that the defendant herein, Charles P. Barrett, be imprisoned in the Ohio penitentiary, at Columbus, for the period of eighteen months and pay a fine of two thousand dollars, to begin upon termination of preceeding sentence.

WM. H. BRAWLEY,
U. S. Judge.

21st February, '95.

Order for Stay of Proceedings Pending Appeal.

Filed 21st February, '95.

THE UNITED STATES OF AMERICA, }
Western District of South Carolina. }

In the District Court.

THE UNITED STATES }
vs. } Vio. Sec. 5440, R. S. U. S.
CHARLES P. BARRETT *et al.* }

The jury herein having found the defendant, Charles P. Barrett, guilty, and he having signified his intention to sue out a writ of error to the Supreme Court of the United States, it is ordered that the defendant, Charles P. Barrett, have thirty days from this date in which to prepare and serve his bill of exceptions and to do any and all acts necessary for the effectuation of his writ of error.

It is further ordered that in the meantime and until it is further ordered all proceedings of every sort herein be, and they are hereby, stayed.

WM. H. BRAWLEY,
U. S. Judge.

21st February, '95.

12

Defendant's Bill of Exceptions.

Filed 6th March, 1895.

THE UNITED STATES OF AMERICA, }
Western Dist. of So. Ca.

In the District Court.

THE UNITED STATES }
v. } § 5440, U. S. Rev. Stat. Conspiracy.
 CHARLES P. BARRETT *et al.*

Defendant's bill of exceptions.

Be it remembered that—

I. On the call of this case for trial and before plea, the defendant, Charles P. Barrett, demurred to the indictment upon the ground that it appeared on the face thereof that, although the crime is charged to have been committed in the county of Spartanburg, in the State of South Carolina, the same being in the western district of said State, yet said indictment was found in the city of Columbia, in the county of Richland, in the State of South Carolina, the same being in the eastern district of said State, and at a time, namely, on December 3, 1894, not authorized by law for the holding of any court of the United States for the western district of South Carolina.

II. On the call of this case for trial and before plea, the defendant, Chas. P. Barrett, filed a plea to the jurisdiction of the court, which was sustained by affidavit upon the grounds:

1. That the jurors of the grand jury by whom the indictment was found were drawn, summoned, and empaneled from both the eastern and western districts of South Carolina, instead of from the western district of said State alone.

2d. That the indictment was found in a circuit court of the United States for South Carolina, held in the city of Columbia, in the county of Richland, the same being in the eastern district of said State, and was remitted to the district court for the western district of said State.

3d. After the attorney of the United States had closed his case the defendant Chas. P. Barrett moved the court that, as the testimony showed that five separate and distinct conspiracies had been committed, one by defendant Barrett with defendant Burdine at one time and place, one by defendant Barrett with defendant Evins at another time and place, one by defendant Barrett with defendant Neighbors at another time and place, one by defendant Barrett with defendant Wyatt at another time and place, and another by defendant Barrett with defendant McElrath at another time and place, and there being no proof connecting the defendants Burdine, Evins, Neighbors, Wyatt, or McElrath with any of the others save defendant Barrett, that the attorney of the United States be required to

elect on which one of the conspiracies he would ask for a conviction.

4th. After verdict, but before judgment, the defendant Barrett moved the court in arrest of judgment on the following grounds, namely :

1. Because the grand jurors that found the indictment were drawn, summoned, and empannelled from both the eastern and
14 western districts of South Carolina, when the crime is charged in the indictment to have been committed in the county of Spartanburg, in the western district of said State.

2d. Because, although the crime is charged in the indictment to have been committed in the county of Spartanburg, in the State of South Carolina, the same being in the western district of said State, yet the indictment was found in the city of Columbia, in the county of Richland, in the eastern district of South Carolina, at a time, namely, on Dec. 3, 1894, not authorized by law for holding any court of the United States in the western district of South Carolina.

3d. Because the indictment was remitted, not to the district court of the United States for the eastern district of South Carolina, but to the district court for the western district of said State.

The court overruled all these objections, and also the motion in arrest of judgment ; to which rulings the defendant Barrett duly excepted and offered the above four bills of exceptions and prayed that they be signed, sealed, and made a part of the record, which is accordingly done.

WM. H. BRAWLEY, [L. s.]
U. S. Judge.

15 *Assignment of Errors & Petition for Writ of Error & Supersedeas.*

Filed 30th July, '95.

THE U. S. OF AMERICA, }
Western District of South Carolina. }

In the District Court.

THE UNITED STATES }
vs. }
CHARLES P. BARRETT *et al.* }

Assignment of errors.

To the Hon'ble W. H. Brawley, judge of the district court of the United States for the western district of South Carolina :

The defendant Chas. P. Barrett respectfully assigns the following errors to the judgment in this cause and to the rulings of the presiding judge before, during, and after the trial :

First.

That the court erred in overruling the demurrer of the defendant to the indictment, it appearing on the face thereof that the crime

was committed in the county of Spartanburg, in the western district of South Carolina, when the same was found in the city of Columbia, in the county of Richland, in the eastern district of said State, and at a time, namely, on December 3d, 1894, not authorized by law for holding any court of the United States for the western district of South Carolina.

Second.

16 That the court erred in overruling the defendant's plea to the jurisdiction of the court, the grand jury that found the indictment having been drawn, summoned, and empanelled from both the eastern and western districts of said State alone, and said indictment having been found in a circuit court held in the city of Columbia, in the county of Richland, in the eastern district of said State, and was remitted to the district court for the western district of said State.

Third.

That the court erred in not requiring the attorney of the United States at the close of the testimony in his case to elect on which one of the five separate and distinct conspiracies proven to have been committed that he would rely for a conviction, the testimony shewing that there were five different conspiracies, committed at different times by different parties—that is to say, a separate conspiracy by defendant Barrett and defendant Burdine at one time and place, a separate conspiracy by defendant Barrett and defendant Evins at another time and place, a separate conspiracy by defendant Barrett and defendant Neighbors at another time and place, a separate conspiracy by defendant Barrett and defendant Wyatt at another time and place, and a separate conspiracy by defendant Barrett and defendant McElrath at another time and place.

Fourth.

17 That the court erred in not arresting the judgment, the grand jurors that found the indictment having been drawn, summoned, and empanelled from both the eastern and western districts of South Carolina, when the offence is charged to have been committed in the county of Spartanburg, in the western district of said State, the indictment having been found at a time and place not authorized by law for the holding of any court of the United States in the western district of South Carolina, namely, on December 3d, 1894, in the city of Columbia, in the eastern district of said State, and the indictment having been remitted to the district court for the western district of South Carolina instead of the eastern district of said State.

Wherefore, for these and other reasons apparent in the rendition of said judgment and the rulings of the court, this deponent prays a writ of error and supersedeas to said judgment; that the same may be allowed and a transcript of this record and proceedings and

papers in this case, duly authenticated, may be sent to the Supreme Court of the United States.

And your petitioner will ever pray, &c.

CHAS. P. BARRETT.

Order Allowing Writ of Error, &c.

It is ordered that the writ of error and supersedeas be allowed as prayed for.

WM. H. BRAWLEY, *U. S. Judge.*

16 August, 1895.

18 UNITED STATES OF AMERICA, ss :

The President of the United States to the honorable the judge of the district court of the United States for the western district of South Carolina, Greeting :

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said district court, before you or some of you, between The United States, plaintiff, and Charles P. Barrett, defendant, a manifest error hath happened, to the great damage of the said Charles P. Barrett, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Supreme Court, together with this writ, so that you have the same at Washington on the 16th day of September next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of our Supreme Court, the 16th day of August, in the year of our Lord one thousand eight hundred and ninety-five.

[Seal District Court United States, Eastern District S. C.]

E. M. SEABROOK,
*Clerk of the District Court of the
United States for the Dist. of So. Ca.*

Allowed by—

WM. H. BRAWLEY, *U. S. Judge*

19

Certificate of Service.

Due service of the within writ of error was made on the 16th day of August, 1895, by the filing of a true copy thereof in the clerk's office of the district court of the United States for the western district of South Carolina on that day.

E. M. SEABROOK,
C. D. C. U. S., S. C.

20 THE UNITED STATES OF AMERICA, }
 Western District of South Carolina. }

In the District Court.

{ THE UNITED STATES }
 v. { S. 5440, U. S. Rev. Stat. Conspiracy.
 CHAS. P. BARRETT *et al.* }

Citation on Writ of Error.

The President of the United States to the United States, Greeting :

You are hereby cited and admonished to be and appear at a United States Supreme Court, to be holden at Washington, D. C., on the — day of —, 1895, pursuant to a writ of error filed in the clerk's office of the district court of the United States for the western district of South Carolina, wherein Chas. P. Barrett is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be — done to the parties in that behalf.

Witness the Honorable M. W. Fuller, Chief Justice of the Supreme Court of the United States, this 16th day of August, 1895.

WM. H. BRAWLEY, *U. S. Judge.*

I accept service of the above citation.

— —, *U. S. Att'y.*

I admit service of the above citation this 20th day of August, A. D. 1895.

WM. PERRY MURPHY, *U. S. Att'y.*

[Endorsed:] 5440. The United States *v.* Chas. P. Barrett *et al.* Citation on writ of error. Filed 16th August, 1895. E. M. Seabrook, C. D. C. U. S., S. C. (Original.)

21 *Order to Transmit Record.*

"And thereupon it is ordered by the court here that a transcript of the record and proceedings in the cause aforesaid, together with all things thereunto relating, be transmitted to the said United States Supreme Court, and the same is transmitted accordingly."

[Seal District Court United States, Eastern District S. C.]

E. M. SEABROOK,
 C. D. C. U. S., S. C.

Clerk's Certificate.

UNITED STATES OF AMERICA, {
District of South Carolina. }

In the District Court.

I, E. M. Seabrook, clerk of the district court of the United States for the district of South Carolina, do hereby certify that the foregoing is a true and correct copy of the records and proceedings in the case of The United States, plaintiff, against Charles P. Barrett, defendant, above named, rendered as aforesaid, together with the verdict and other things relating to the same, now on file & of record in said court.

In witness whereof set my official signature & seal of said court, at Charleston, S. C., this 13th day of September, A. D. 1895.

[Seal District Court United States, Eastern District S. C.]

E. M. SEABROOK,
C. D. C. U. S., S. C.

Endorsed on cover: Case No. 16,296. W. South Carolina D. C. U. S. Term No., 175. Charles P. Barrett, plaintiff in error, vs. The United States. Filed May 11th, 1896.

1151

Agreed
TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 175,

CHARLES P. BARRETT, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED
STATES FOR THE WESTERN DISTRICT
OF SOUTH CAROLINA.

FILED MAY 11, 1896.

In the district court of the United States for the western district of South Carolina.

THE UNITED STATES	}	Indictment for conspiracy, in violation of Section 5440, U. S. Revised Statutes.
<i>vs.</i>		
CHAS. P. BARRETT, <i>et al.</i>		

At a regular term of the circuit court of the United States for the district of South Carolina, held in Columbia, S. C., on the fourth Monday in November, 1894, an indictment was found against Chas. P. Barrett, *et al.*, for conspiracy, in violation of Section 5440, United States Revised Statutes, the caption and beginning of which is as follows: "The United States of America. District of South Carolina. In the circuit court. At a stated term of the circuit court of the United States for the district of South Carolina, begun and holden at Columbia and for the district aforesaid on the fourth Monday of November, 1894." The indictment is in all respects in proper form, etc., etc.

During that term of the court, to wit, on January 30, 1895, the cause was remitted to the district court of the United States for the western district of South Carolina. A copy of the order is as follows: "On motion of Wm. Perry Murphy, U. S. attorney for the district of South Carolina, it is hereby ordered that the above stated case be remitted from the circuit court of the United States for the district of South Carolina to the district court of

"the United States for the western district of South Carolina.

"CHAS. H. SIMONTON,
"U. S. Circuit Judge."

On the same day, the original record in the case was filed in the office of the clerk of the court of the United States for the western district of South Carolina. At the February term, 1895, of said district court, the cause came on to be heard at Greenville, in the county of Greenville, South Carolina. Barrett was convicted and sentenced to eighteen (18) months' imprisonment and to pay a fine.

The indictment charges the offense to have been committed in the county of Spartanburg, South Carolina.

Defendant Barrett, before pleading "not guilty," demurred to the indictment and filed a plea to the jurisdiction of the court, which were overruled by the court. After conviction, but before sentence, he made a motion in arrest of judgment, which was likewise overruled. He then sued out this writ of error to the Supreme Court, which was duly allowed, citation properly served, etc., etc.

BILL OF EXCEPTIONS.

Be it remembered that—

I. On the call of this case for trial, and before plea, the defendant, Chas. P. Barrett, demurred to the indictment on the ground that it appeared on the face thereof that, although the offense is charged to have been committed in the county of Spartanburg, in the State of South

Carolina, the same being in the western district of said State, yet said indictment was found in the city of Columbia, in the county of Richland, in the State of South Carolina, the same being in the eastern district of said State, and at a time, namely, on December 3, 1894, not authorized by law for the holding of any court of the United States for the western district of South Carolina.

II. On the call of this case for trial, and before plea, the defendant, Chas. P. Barrett, filed a plea to the jurisdiction of the court, which was sustained by affidavit, on the grounds:

1. That the jurors of the grand jury by whom the indictment was found, were drawn, summoned, and empaneled from both the eastern and western districts of South Carolina, instead of from the western district of said State alone.

2. That the indictment was found in a circuit court of the United States for South Carolina, held in the city of Columbia, in the county of Richland, the same being in the eastern district of said State, and was remitted to the district court for the western district of said State.

3 III. After verdict, but before judgment, the defendant, Barrett, moved the court in arrest of judgment on the following grounds:

1. Because the grand jurors that found the indictment were drawn, summoned, and empaneled from both the eastern and western districts of South Carolina, when the crime is charged in the indictment to have been committed in the county of Spartanburg, which is in the western district of said State.

2. Because, although the crime is charged in the indictment to have been committed in the county of Spartanburg, in the State of South Carolina, the said county being in the western district of said State, yet the indictment was found in the city of Columbia, in the county of

Richland, in the eastern district of South Carolina, at a time, namely, on December 3, 1894, not authorized by law for holding any court of the United States in the western district of South Carolina.

3. Because the indictment was remitted, not to the district court of the United States for the eastern district of South Carolina, but to the district court for the western district of said State.

The court overruled all these objections, and also the motion in arrest of judgment. To which rulings the defendant Barrett duly excepted and offered the above four bills of exceptions and prayed that they be signed, sealed, and made a part of the record, which is accordingly done.

WM. H. BRAWLEY, [L. S.]
U. S. Judge.

ASSIGNMENT OF ERRORS.

I. That the court erred in overruling the demurrer of the defendant to the indictment, it appearing on the face thereof that the crime was committed in the county of Spartanburg, in the western district of South Carolina, when the same was found in the city of Columbia, in the county of Richland, in the eastern district of said State, and at a time, namely, on December 3, 1894, not authorized by law for holding any court of the United States for the western district of South Carolina.

II. That the court erred in overruling the defendant's plea to the jurisdiction of the court, the grand jury that found the indictment having been drawn, summoned, and em-

paneled from both the eastern and western districts of said State; and said indictment having been found in a circuit court held in the city of Columbia, in the county of Richland, in the eastern district of said State, and was remitted to the district court for the western district of said State. X X X X

3. III. That the court erred in not arresting the judgment, the grand jurors that found the indictment having been drawn, summoned, and empaneled from both the eastern and western districts of South Carolina, when the offense is charged to have been committed in the county of Spartanburg, which is in the western district of said State; the indictment having been found at a time and place not authorized by law for the holding of any court of the United States in the western district of South Carolina, namely, in December, 1894, in the city of Columbia, in the county of Richland, in the eastern district of said State; and the indictment having been remitted to the district court for the western district of South Carolina.

CHAS. P. BARRETT.

AGREEMENT.

We agree that the foregoing five pages shall constitute the record in this case. It is not abbreviated to alter, vary, or contradict the record on file in the case, but to save expense of printing, as well as for the convenience of court and counsel. Should there be any error of omission or commission in this, the original record is to control. And should the court wish any more of the

record printed, the same is to be done by the plaintiff in error.

CHARLES C. LANCASTER,
Counsel for Plaintiff in Error.

JAS. E. BOYD,
Asst. Att'y Gen'l for U. S.